

BILL NO. G-85-03-35 (as amended-as amended-as amended) GENERAL
ORDINANCE 10-13-85

AN ORDINANCE concerning environmental public nuisances.

WHEREAS, a present ordinance entitled Weeds and Noxious Plants is in need of revision.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That Chapter 32 of the Municipal Code of the City of Fort Wayne is repealed.

SECTION 2. That there is hereby established and adopted a revised ordinance which shall constitute a new Chapter 32 of the Municipal Code of the City of Fort Wayne as follows:

ENVIRONMENTAL PUBLIC NUISANCES

Sec. 32-1. Purpose and Intent.

It is hereby declared to be the purpose of this chapter to protect public safety, health, and welfare and enhance the environment of the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.

Sec. 32-2. Definitions.

For the purpose of this chapter the following terms shall have the following meanings. The word "shall" is always mandatory and not merely directory.

- (a) "Authorized employee" means an employee of the Fort Wayne-Allen County Department of Public Health having law enforcement powers and who can issue city ordinance violation summons to enforce the provisions of this chapter.
- (b) "City" means the City of Fort Wayne.
- (c) "Environmental public nuisance" is:
 - (1) Any growth of weeds, grass or other rank vegetation on private or governmental property which is neglected, disregarded or not cut, mown, or otherwise removed and/or which has attained a height of nine (9) inches or more.
 - (2) Any accumulation on private or governmental property of dead weeds, grass or brush.
 - (3) Any poison ivy, ragweed or other poisonous plant, or plants detrimental to health, growing on any private or governmental property in such manner that any portion of such ivy, ragweed, or other poisonous or harmful weed shall extend upon, overhang or border any public place, or allow seed, pollen or other particles or emanations therefrom

to be carried through the air into any public place.

- (4) Property which has been allowed to become a health or safety hazard, or which has accumulated litter or waste products, unless specifically authorized under existing laws and regulations.
- (d) "Excluded property" means cultivated land in commercial, domestic, agricultural or horticultural use, a natural or developed forest, which does not create a health or safety hazard, conforming to Management Series No. 2 of the Indiana Department of Natural Resources or registered with the National Wildlife Federation which does not create a health or safety hazard, and which is properly screened, if requested, by adjoining landowners; or vacant, open lands or fields or wooded areas more than one hundred fifty feet (150') from occupied property. However, natural habitats or wildlife habitats in R-1, R-2, and R-3 (residential) districts are not to be considered excluded property, and will constitute a violation of this ordinance.
- (e) "Governmental property" means real estate which is owned, leased, controlled or occupied by the United States, the State of Indiana, or any political subdivision thereof; excluding areas such as interior fields, river bank properties, and wooded lots which are maintained as natural sites by any such political entity.
- (f) "Inspector" means an individual designated by the Fort Wayne-Allen County Health Commissioner to make environmental public nuisance inspections.
- (g) "Occupant" means the person, firm, partnership, association, corporation, business trust, joint stock company, unincorporated organization, religious or charitable organization, or any owner, person, persons or entities who are from time to time in possession or exercising dominion and control over any house or other structure located on private property; or the agents thereof.
- (h) "Owner" shall be presumed to be any one or more of the following:
 - (1) The owner or owners in fee simple of a parcel of real estate including the life tenant or tenants if any; or
 - (2) The record owner or owners as reflected by the most current records in the township assessor's office of the township in which the real estate is located; or
 - (3) The purchaser or purchasers of such real estate under any contract for the conditional sale thereof.
- (i) "Private property" means all real estate within the City of Fort Wayne, except governmental property.

Section 32-3. Application of Chapter.

- (a) Each department or agency of the United States, the State of Indiana, or any political subdivision thereof, shall be required to keep governmental property free from environmental public nuisances.

- (b) All owners, lessees or occupants, or other persons in control of any private property in the city shall be required to keep that private property free from environmental public nuisances.

Section 32-4. Prohibited activity.

It shall be unlawful for any property owner or occupant to allow an environmental public nuisance to exist.

Section 32-5. Determination of violation.

Any department of the City which receives a complaint regarding an environmental public nuisance on any property within the City shall forward that complaint to the Fort Wayne-Allen County Department of Public Health, where it shall be assigned a case number and entered in a complaint log book. An inspector designated by the Commissioner of the Fort Wayne-Allen County Health Department shall visually inspect the property in question.

Section 32-6. Enforcement.

- (a) Issuance of Court Summons. If, upon inspection, it is determined that a violation exists an authorized employee of the Fort Wayne Allen County Department of Public Health shall issue a City ordinance violation summons which will require that the owner or occupant cited appear in court on a specified date, and shall provide a copy thereof to the City Attorney, or his designated representative.
- (b) Additional Remedy. In addition to the foregoing, the City may, by appropriate action, seek injunctive relief, and may petition the court to enjoin or order the abatement of any violation of this chapter.
- (c) Abatement by City on Vacant Lots or Unoccupied Property Where Owner is Unknown. If, upon inspection of any vacant lot or unoccupied property where the owner is unknown to the inspector, it is determined by the inspector that a violation exists, and that the environmental public nuisance constitutes a menace to the health and safety of the people of the City, then the Commissioner of the Fort Wayne-Allen County Department of Public Health or his authorized representative may direct the City Street Commissioner or his authorized representative to immediately enter upon the premises and remove the environmental public nuisance.
- (d) Abatement by City on Occupied Property, Vacant or Unoccupied Property Where Owner is Known. If, upon inspection of any occupied property, or vacant lot or unoccupied property where the owner is known to the inspector, it is determined that a violation exists, and that the environmental public nuisance constitutes a menace to the health and safety of the people of the City, then a written notice in the name of the Controller of the City shall be served by an authorized employee of the City of Fort Wayne-Allen County Department of Health if the owner is a resident of the City, or by registered mail to his last known address if the owner is not a resident of the City. If the owner fails to remove the environmental public nuisance within five days, or such longer period as the notice may provide, then the City may remove the environmental public nuisance.

(e) Responsibility of Offender for Costs of Removal.

The City Controller shall make a certified statement of the actual cost incurred by, and reimbursable to, the City in the removal, which statement shall include as an actual cost of removal a Fifty Dollar (\$50.00) supervision fee, one-half of which shall be paid to the City General Fund and one-half of which shall be paid to the Fort Wayne-Allen County Health Department Fund. If a search of property records is required, a Twenty-five Dollar (\$25.00) search fee shall be charged and paid to the City General Fund. Said statement shall be delivered to the property owner by an authorized employee of the City of Fort Wayne-Allen County Department of Health, or by registered mail, and the owner shall pay the amount noted to the Controller within ten (10) days after receipt of the statement.

If the owner fails to pay the amount within ten (10) days after receiving a statement, a certified copy of the statement of costs shall be filed in the Office of the Auditor of Allen County for the purpose of placing the amount claimed on the tax duplicate against the property affected by the work, and so that the amount claimed can be collected as taxes are collected and disbursed to the City General Fund subject to the limitations above.

Section 32-7. Penalty.

Except as otherwise provided herein, any owner or occupant convicted of a violation of this chapter shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00). However, for each second and subsequent offense, the minimum fine shall be not less than One Hundred Dollars (\$100.00). In addition to any fine imposed herein, the offender shall be responsible for all costs of abatement and a Twenty-five Dollar (\$25.00) record search fee when property ownership must be determined which record search fee shall be payable to the City General Fund. Each day such violation is permitted to continue may be deemed to constitute a separate offense. One-third of any such fines collected shall be payable to the City of Fort Wayne-Allen County Health Department Fund and the balance to City General Fund.

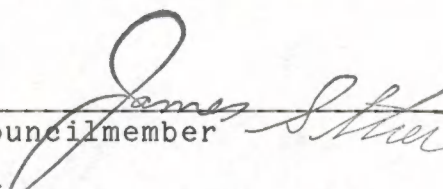
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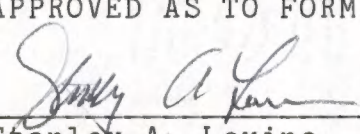
SECTION 3. It is the express intent of this Ordinance to adopt I.C. 36-7-10-3.

SECTION 4. Notwithstanding any provisions of this ordinance, this ordinance shall not be construed to repeal any former ordinance as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred or any right accrued or claim arising under the former ordinance.

SECTION 5. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor and due publication.


Councilmember

APPROVED AS TO FORM AND LEGALITY


Stanley A. Levine
Legal Advisor to Common Council

Read the first time in full and on motion by Bradbury, seconded by Redd, and duly adopted, read the second time by title and referred to the Committee of the Whole (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ .M., E.S.T.

DATE: 3-12-85

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Stier, seconded by Talarico, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u>0</u>	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 6-11-85

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ANNEXATION~~) (~~APPROPRIATION~~) (GENERAL)

(~~SPECIAL~~) (~~ZONING MAP~~) ORDINANCE (RESOLUTION) NO. B-13-85

on the 11th day of June, 1985,

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Mark E. Giaquinta
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of June, 1985, at the hour of 1:00 o'clock PM .M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 12th day of June, 1985, at the hour of 2:00 o'clock _____ .M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR., MAYOR

BILL NO. G-85-03-35 (as amended-as amended) GENERAL ORDINANCE

5-13-85

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place.

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- (e) "Governmental property" means real estate which is owned, leased, controlled or occupied by the United States, the State of Indiana, or any political subdivision thereof; excluding areas such as interior fields, river bank properties, and wooded lots which are maintained as natural sites by any such political entity.
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- (h) "Owner" shall be presumed to be any one or more of the following:
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- (b) Additional Remedy. In addition to the foregoing, the City may, by appropriate action, seek injunctive relief, and may petition the court to enjoin or order the abatement of any violation of this chapter.
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to, the City in the removal, which statement shall include as an actual cost of removal a Fifty Dollar (\$50.00) supervision fee, one-half of which shall be paid to the City General Fund and one-half of which shall be paid to the Fort Wayne-Allen County Health Department Fund. If a search of property records is required, a Twenty-five Dollar (\$25.00) search fee shall be charged and paid to the City General Fund. Said statement shall be delivered to the property owner by an authorized employee of the City of Fort Wayne-Allen County Department of Health, or by registered mail, and the owner shall pay the amount noted to the Controller within ten (10) days after receipt of the statement.

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Section 32-8. Severability.

If any provision or term of this chapter, or any application thereof, is held invalid, the invalidity shall not affect other applications of the provisions or terms of this chapter which reasonably can be given effect without the invalid provision or term for the application thereof.

SECTION 3. It is the express intent of this Ordinance to adopt I.C. 36-7-10-3.

SECTION 4. Notwithstanding any provisions of this ordinance, this ordinance shall not be construed to repeal any former ordinance as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred or any right accrued or claim arising under the former ordinance.

SECTION 5. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary

approval by the Mayor and due publication.

Councilmember

APPROVED AS TO FORM AND LEGALITY

Stanley A. Levine
Legal Advisor to Common Council

BILL NO. G-85-03-35 (as amended) GENERAL ORDINANCE _____

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- (a) "Authorized employee" means an employee of the Fort Wayne-Allen County Department of Public Health having law enforcement powers and who can issue city ordinance violation summons to enforce the provisions of this chapter.
- (b) "City" means the City of Fort Wayne.
- (c) "Environmental public nuisance" is:
 - (1) Any growth of weeds, grass or other rank vegetation on private or governmental property which is neglected, disregarded or not cut, mown, or otherwise removed and which has attained a height of nine (9) inches or more.
 - (2) Any accumulation on private or governmental property of dead weeds, grass or brush.
 - (3) Any poison ivy, ragweed or other poisonous plant, or plants detrimental to health, growing on any private or governmental property in such manner that any portion of such ivy, ragweed, or other poisonous or harmful weed shall extend upon, overhang or border any public place, or allow seed, pollen or other particles or emanations therefrom to be carried through the air into any public place.

- (4) Property which has been allowed to become a health or safety hazard, or which has accumulated litter or waste products, unless specifically authorized under existing laws and regulations.
- (d) "Governmental property" means real estate which is owned, leased, controlled or occupied by the United States, the State of Indiana, or any political subdivision thereof.
- (e) "Inspector" means an individual designated by the Fort Wayne-Allen County Health Commissioner to make environmental public nuisance inspections.
- (f) "Occupant" means the person, firm, partnership, association, corporation, business trust, joint stock company, unincorporated organization, religious or charitable organization, or any owner, person, persons or entities who are from time to time in possession or exercising dominion and control over any house or other structure located on private property; or the agents thereof.
- (g) "Owner" shall be presumed to be any one or more of the following:
 - (1) The owner or owners in fee simple of a parcel of real estate including the life tenant or tenants if any; or
 - (2) The record owner or owners as reflected by the most current records in the township assessor's office of the township in which the real estate is located; or
 - (3) The purchaser or purchasers of such real estate under any contract for the conditional sale thereof.
- (h) "Private property" means all real estate within the City of Fort Wayne, except governmental property.

Section 32-3. Application of Chapter.

- (a) Each department or agency of the United States, the State of Indiana, or any political subdivision thereof, shall be required to keep governmental property free from environmental public nuisances.
- (b) All owners, lessees or occupants, or other persons in control of any private property in the city shall be required to keep that private property free from environmental public nuisances.

Section 32-4. Prohibited activity.

It shall be unlawful for any property owner or occupant to allow an environmental public nuisance to exist.

Section 32-5. Determination of violation.

Any department of the City which receives a complaint regarding an environmental public nuisance on any property within the City shall forward that complaint to the Fort Wayne-Allen County Department of Public Health, where it shall be assigned a case number and entered in a complaint log book. An inspector designated by the Commissioner of the Fort Wayne-Allen County Health Department shall visually inspect the property in question.

Section 32-6. Enforcement.

- (a) (Issuance of Court Summons.) If, upon inspection, it is determined that a violation exists an authorized employee of the Fort Wayne Allen County Department of Public Health shall issue a City ordinance violation summons which will require that the owner or occupant cited appear in court on a specified date, and shall provide a copy thereof to the City Attorney, or his designated representative.
- (b) (Additional remedy.) In addition to the foregoing, the City may, by appropriate action, seek injunctive relief, and may petition the court to enjoin or order the abatement of any violation of this chapter.
- (c) (Abatement by City on Vacant Lots or Unoccupied Property Where Owner is Unknown.) If, upon inspection of any vacant lot or unoccupied property where the owner is unknown to the inspector, it is determined by the inspector that a violation exists, and that the environmental public nuisance constitutes a menace to the health and safety of the people of the City, then the Commissioner of the Fort Wayne-Allen County Department of Public Health or his authorized representative may direct the City Street Commissioner or his authorized representative to immediately enter upon the premises and remove the environmental public nuisance.
- (d) (Abatement By City on Occupied Property, Vacant or Unoccupied Property Where Owner is Known.) If, upon inspection of any occupied property, or vacant lot or unoccupied property where the owner is known to the inspector, it is determined that a violation exists, and that the environmental public nuisance constitutes a menace to the health and safety of the people of the City, then a written notice in the name of the Controller of the City shall be served by an authorized employee of the City of Fort Wayne-Allen County Department of Health if the owner is a resident of the City, or by registered mail to his last known address if the owner is not a resident of the City. If the owner fails to remove the environmental public nuisance within five days, or such longer period as the notice may provide, then the City may remove the environmental public nuisance.
- (e) (Responsibility of Offender for Costs of Removal.)

The City Controller shall make a certified statement of the actual cost incurred by, and reimbursable to, the City in the removal, which statement shall include as an actual cost of removal a Fifty Dollar (\$50.00) supervision fee, one-half of which shall be paid to the City General Fund and one-half of which shall be paid to the Fort Wayne-Allen County Health Department Fund. If a search of property records is required, a Twenty-five Dollar (\$25.00) search fee shall be charged and paid to the City General Fund. Said statement shall be delivered to the property owner by an authorized employee of the City of Fort Wayne-Allen County Department of Health, or by registered mail, and the owner shall pay the amount noted to the Controller within ten (10) days after receipt of the statement.

If the owner fails to pay the amount within ten (10) days after receiving a statement, a certified copy of the statement of costs shall be filed in the Office of the Auditor of Allen County for the purpose of placing the amount claimed on the tax duplicate against the property affected by the work, and so that the amount claimed can be collected as taxes are collected and disbursed to the City General Fund subject to the limitations above.

Section 32-7. Penalty.

Except as otherwise provided herein, any person convicted of a violation of this chapter shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00). However, for each second and subsequent offense, the minimum fine shall be not less than One Hundred Dollars (\$100.00). In addition to any fine imposed herein, the offender shall be responsible for all costs of abatement and a Twenty-five Dollar (\$25.00) record search fee when property ownership must be determined which record search fee shall be payable to the City General Fund. Each day such violation is permitted to continue may be deemed to constitute a separate offense. One-third of any such fines collected shall be payable to the City of Fort Wayne-Allen County Health Department Fund and the balance to City General Fund.

Section 32-8. Severability.

If any provision or term of this chapter, or any application thereof, is held invalid, the invalidity shall not affect other applications of the provisions or terms of this chapter which reasonably can be given effect without the invalid provision or term for the application thereof.


SECTION 3. It is the express intent of this Ordinance to adopt I.C. 36-7-10-3.

SECTION 4. Notwithstanding any provisions of this ordinance, this ordinance shall not be construed to repeal any former ordinance as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred or any right accrued or claim arising under the former ordinance.

SECTION 5. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor and due publication.

Councilmember

APPROVED AS TO FORM AND LEGALITY



Stanley A. Levine
Legal Advisor to Common Council

1 BILL NO. _____

G-85-03-35 (6th meeting)

GENERAL ORDINANCE NO. _____

2
3 AN ORDINANCE concerning environmental
4 public nuisances.

5 WHEREAS, a present ordinance entitled Weeds and Noxious
6 Plants is in need of revision.

7 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
8 THE CITY OF FORT WAYNE, INDIANA:

9 SECTION 1. That Chapter 32 of the Municipal Code of the
10 City of Fort Wayne is repealed.

11 SECTION 2. That there is hereby established and adopted
12 a revised ordinance which shall constitute a new Chapter 32 of
13 the Municipal Code of the City of Fort Wayne as follows:

14 ENVIRONMENTAL PUBLIC NUISANCES

15 Sec. 32-1. Purpose and intent.

16 It is hereby declared to be the purpose of this
17 chapter to protect public safety, health, and welfare
18 and enhance the environment of the people of the city by
19 making it unlawful for property owners and occupants to
20 allow an environmental public nuisance to exist.

21 Sec. 32-2. Definitions.

22 For the purpose of this chapter the following terms
23 shall have the following meanings. The word "shall" is
24 always mandatory and not merely directory.

25 (a) "Authorized employee" means an employee of the
26 Fort Wayne Allen County Department of Public
27 Health having law enforcement powers and who
28 can issue city ordinance violation summons to
29 enforce the provisions of this chapter.

30 (b) "City" means the City of Fort Wayne.

31 (c) "Environmental public nuisance" is:

32 (1) Vegetation on private or governmental
property which is abandoned, neglected,
disregarded or not cut, mown, or other-
wise removed and which has attained a
height of twelve (12) inches or more;

(2) Vegetation, trees or woody growth on pri-
vate property which, due to its proximity
to any governmental property, right-of-

way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement;

(3) Property which has been allowed to become a health or safety hazard, or which has accumulated litter or waste products, unless specifically authorized under existing laws and regulations.

(d) "Excluded property" means cultivated land in commercial, domestic, agricultural or horticultural use, a natural or developed forest, which does not create a health or safety hazard, back yard, wildlife habitats conforming to Management Series No. 2 of the Indiana Department of Natural Resources or registered with the National Wildlife Federation which does not create a health or safety hazard, and which is properly screened, if requested, by adjoining landowners; or vacant, open lands or fields or wooded areas more than one hundred and fifty feet (150') from occupied property.

(e) "Governmental property" means real estate which is owned, leased, controlled or occupied by the United States, the State of Indiana, or any political subdivision thereof.

(f) "Occupant" means the person, firm, partnership, association, corporation, business trust, joint stock company, unincorporated organization, religious or charitable organization, or any owner, person, persons or entities who are from time to time in possession or exercising dominion and control over any house or other structure located on private property.

(g) "Owner" shall be presumed to be any one or more of the following:

(1) The owner or owners in fee simple of a parcel of real estate including the life tenant or tenants if any; or

(2) The record owner or owners as reflected by the most current records in the township assessor's office of the township in which the real estate is located; or

(3) The purchaser or purchasers of such real estate under any contract for the conditional sale thereof.

(h) "Private property" means all real estate within the City of Fort Wayne, except governmental property.

1 Section 32-3. Application of chapter.

2 (a) Each department or agency of the United
3 States, the State of Indiana, or any political sub-
4 division thereof, shall be required to keep governmental
5 property free from environmental public nuisances.

6 (b) All owners, lessees or occupants, or other
7 persons in control of any private property in the city
8 shall be required to keep that private property free
9 from environmental public nuisances.

10 Section 32-4. Prohibited activity.

11 It shall be unlawful for any property owner or
12 occupant to allow an environmental public nuisance to
13 exist.

14 Section 32-5. Determination of violation; preliminary
15 notice.

16 Any department of the city which receives a
17 complaint regarding an environmental public nuisance on
18 any property within the city shall forward that
19 complaint to the Fort Wayne Allen County Department of
20 Public Health, where it shall be assigned a case number
21 and entered in a complaint log book. An inspector shall
22 visually inspect the property in question. If the
23 inspector determines that a violation exists, the office
24 of property management shall give written preliminary
25 notice to the occupant or owner, or both, either by per-
26 sonal service or by first-class United States mail,
27 postage prepaid. Such notice shall state the nature of
28 the alleged environmental public nuisance and the action
29 deemed necessary to correct the condition, and shall fix
30 a date not sooner than ten (10) days from the date of
31 receipt of the notice when the property will be re-
32 inspected. If, upon such re-inspection, it is deter-
33 mined that the environmental public nuisance has been
34 corrected, the owner or occupant shall not be liable for
35 any charges under this chapter.

36 Section 32-6. Failure to abate after notice; enforce-
37 ment.

38 (a) [Issuance of Court Summons Upon Failure to
39 Abate; Compromise of Offense.] If, upon re-inspection,
40 it is determined by the inspector that abatement has not
41 occurred, an authorized employee of the Fort Wayne Allen
42 County Department of Public Health shall issue a city
43 ordinance violation summons which will require that the
44 owner or occupant cited appear in court on a specified
45 date, and shall provide a copy thereof to the city
46 attorney. The owner or occupant cited may compromise
47 the offense within five (5) days of receipt of the sum-
48 mons by admitting liability for the offense and paying a
49 charge of Eighteen Dollars (\$18.00), either by mailing
50 that amount to the office of the Fort Wayne Allen County
51 Department of Public Health, or by appearing in person,
52 or by attorney or agent at that office; provided, that

1 no owner or occupant will be permitted to compromise
2 offenses under this chapter more than two (2) times in
any calendar year.

3 (b) [Failure to Respond to Summons.] Upon the
4 failure or refusal of any person to respond to the sum-
5 mons as provided herein, it shall be the duty of the
6 Fort Wayne Allen County Department of Public Health to
7 report that fact to the City Attorney's office and to
the employee who issued the summons and to furnish the
City Attorney with all relevant information regarding
the violation. Enforcement proceedings shall then be
brought in the manner provided by law.

8 (c) [Additional remedy.] In addition to the
9 foregoing, the city may, by appropriate action, seek
10 injunctive relief, and may petition the court to enjoin
or order the abatement of any violation of this chapter.

11 (d) [Abatement by City.] If, upon re-inspection,
12 it is determined by the inspector that abatement has not
13 occurred, and that the environmental public nuisance
14 constitutes a menace to the health and safety of the
people of the city, then the Director of the Fort Wayne
Allen County Department of Public Health or his
designee, may enter upon the premises and abate the
offending condition.

15 (e) [Responsibility of Offender for Costs of
16 Enforcement.]

17 (1) [Administrative costs:] As compensation
18 to the City of Fort Wayne for its ser-
19 vices in the enforcement of this section,
20 the owner or occupant shall, within ten
(10) days, pay to the Fort Wayne Allen
County Department of Public Health, or
the City Clerk, the following fees and
charges:

- 21 a. Eight Dollars (\$8.00) for each
22 inspection necessary to determine
23 compliance with the provisions of
this chapter.
- 24 b. Eight Dollars (\$8.00) for determining
25 private property ownership, if
necessary.
- 26 c. Three Dollars (\$3.00) for each time a
27 first-class letter is mailed to an
owner or owners.
- 28 d. Ten Dollars (\$10.00) per manhour, or
29 fraction thereof, for labor necessary
to abate an environmental public
nuisance.
- 30 e. Twenty-five Dollars (\$25.00) per
31 machine hour or fraction thereof for
32 the use of each piece of equipment
used in abating an environmental
public nuisance.

1 (2) [Costs of abatement by city:] Whenever
2 the city, or any agent or contractor on
3 its behalf, corrects or abates an
4 environmental public nuisance on private
5 property there shall be a minimum
6 assessment of Fifty Dollars (\$50.00) ser-
7 vice fee plus the appropriate administra-
8 tive fees listed above.

9 (3) [Unpaid costs become lien upon affected
10 property; perfecting of lien:] Upon the
11 failure of the owner or occupant to pay
12 the appropriate fees and charges within
13 the ten (10) day time period, the City
14 shall have a lien upon the offending pri-
15 vate property to the full extent of the
16 value of the act or acts performed, or
17 the services rendered, or both, in accor-
18 dance with the fee schedule listed above.
19 In addition, there will be a Ten Dollar
20 (\$10.00) charge for services necessary in
21 order to perfect such lien. Such liens
22 shall be perfected in the following man-
23 ner:

24 a. By the adoption by the board of the
25 Fort Wayne Allen County Department
26 of Public Health at any regular or
27 special meeting thereof of an
28 assessment resolution which shall
29 give the name of the owner or
30 owners, a description of the
31 offending private property and the
32 amount of the charges being
assessed; and,

b. The certification of such assessment
resolution to the auditor of Allen
County who by special assessment
shall cause the amount thereof to be
placed on a tax duplicate for the
offending private property subject
to collection as in the nature of an
additional or supplemental real prop-
erty tax, and disbursed to the
General Fund of the city.

c. Contemporaneously with certification
of the assessment resolution to the
county auditor, the Fort Wayne Allen
County Department of Public Health
may additionally elect to render a
written statement of the amount due
to each offending owner and such
owner shall also be liable in an
action to recover the aforesaid
amount.

30 Section 32-7. Penalty.

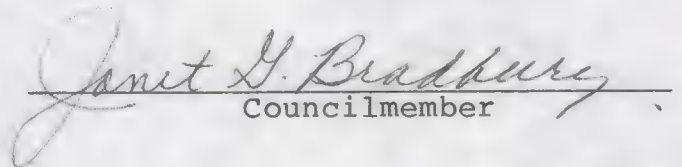
31 Except as otherwise provided herein, any person
32 convicted of a violation of this chapter shall be

1 punished by a fine of not more than One Thousand Dollars
2 (\$1,000.00). Each day such violation is permitted to
3 continue may be deemed to constitute a separate offense.

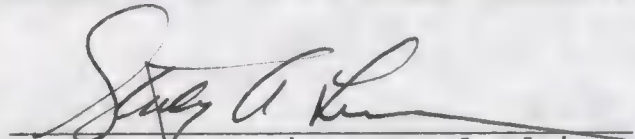
4 Section 32-8. Severability.

5 If any provision or term of this chapter, or any
6 application thereof, is held invalid, the invalidity
7 shall not affect other applications of the provisions or
8 terms of this chapter which reasonably can be given
9 effect without the invalid provision or term for the
10 application thereof.

11 SECTION 3. That this Ordinance shall be in full force
12 and effect from and after its passage and any and all necessary
13 approval by the Mayor.

14 
15 Councilmember

16 APPROVED AS TO FORM AND LEGALITY

17 
18 Stanley A. Levine, Legal Advisor
19 to Common Council
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Section (d) as amended:

- (d) "Excluded property" means cultivated land in commercial, domestic, agricultural or horticultural use, a natural or developed forest, which does not create a health or safety hazard, ~~back yard~~, conforming to Management Series No. 2 of the Indiana Department of Natural Resources or registered with the National Wildlife Federation which does not create a health or safety hazard, and which is properly screened, if requested, by adjoining landowners; or vacant, open lands or fields or wooded areas more than one hundred fifty feet (150') from occupied property. However, natural habitats or wildlife habitats in R-1, R-2, and R-3 (residential) districts are not to be considered excluded property, and will constitute a violation of this ordinance.



The City of Fort Wayne

June 14, 1985

Ms. Trudy Sterling
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, IN 46802

Dear Ms. Sterling:

Please give the attached full coverage on the dates of
June 18 and June 25, 1985, in both the News Sentinel and
Journal Gazette.

RE: Legal Notice for Common Council
of Fort Wayne, IN

Bill No. G-85-03-35 (as amended) (as amended)
(as amended)

General Ordinance No. G-13-85
Environmental Public Nuisances

Please send us 5 copies of the Publisher's Affidavit from
both newspapers.

Thank you.

Sincerely yours,

Sandra E. Kennedy
City Clerk

SEK/ne
ENCL: 1

LEGAL NOTICE

Notice is hereby given that on the 11th day of June, 19 85, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following Bill No. G-85-03-35 (as amended) (as amended) (as amended) Ordinance No. G-13-85 to-wit:

BILL NO. G-85-03-35 (as amended-as amended-as amended) GENERAL ORDINANCE G-13-85

AN ORDINANCE concerning environmental public nuisances.

WHEREAS, a present ordinance entitled Weeds and Noxious Plants is in need of revision.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That Chapter 32 of the Municipal Code of the City of Fort Wayne is repealed.

SECTION 2. That there is hereby established and adopted a revised ordinance which shall constitute a new Chapter 32 of the Municipal Code of the City of Fort Wayne as follows:

ENVIRONMENTAL PUBLIC NUISANCES

Sec. 32-1. Purpose and Intent.

It is hereby declared to be the purpose of this chapter to protect public safety, health, and welfare and enhance the environment of the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.

Sec. 32-2. Definitions.

For the purpose of this chapter the following terms shall have the following meanings. The word "shall" is always mandatory and not merely directory.

- (a) "Authorized employee" means an employee of the Fort Wayne-Allen County Department of Public Health having law enforcement powers and who can issue city ordinance violation summons to enforce the provisions of this chapter.
- (b) "City" means the City of Fort Wayne.
- (c) "Environmental public nuisance" is:
 - (1) Any growth of weeds, grass or other rank vegetation on private or governmental property which is neglected, disregarded or not cut, mown, or otherwise removed and/or which has attained a height of nine (9) inches or more.
 - (2) Any accumulation on private or governmental property of dead weeds, grass or brush.

Fort Wayne Common Council
(Governmental Unit)
Allen County, IN

To JOURNAL-GAZETTE Dr.
P.O. BOX 100
FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) - number of equivalent lines	
Head number of lines	1
Body number of lines	275
Tail number of lines	2
Total number of lines in notice	278

COMPUTATION OF CHARGES

278 lines, 1 columns wide equals 278 equivalent lines at .450¢ 125.10 cents per line

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of 50

TOTAL AMOUNT 60

DATA FOR COMPUTING COST

Width of single column 15

Number of insertions

Pursuant to the provision and penalties of C

I hereby certify that the foregoing account has been paid.

LEGAL NOTICE

Notice is hereby given that on the 11th day of June, 1985, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following Bill No. G-85-03-35 (as amended) (as amended) (as amended) Ordinance No. G-13-85 to-wit:

BILL NO. G-85-03-35 (as amended-as amended-as amended) GENERAL ORDINANCE G-13-85 AN ORDINANCE concerning environmental public nuisances.

WHEREAS, the present ordinance entitled Weeds and Noxious Plants is in need of revision. NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That Chapter 32 of the Municipal Code of the City of Fort Wayne is repealed.

SECTION 2. That there is hereby established and adopted a revised ordinance which shall constitute a new Chapter 32 of the Municipal Code of the City of Fort Wayne as follows:

ENVIRONMENTAL PUBLIC NUISANCES

Sec. 32-1. Purpose and Intent. It is hereby declared to be the purpose of this chapter to protect public safety, health, and welfare and enhance the environment of the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.

Sec. 32-2. Definitions. For the purpose of this chapter the following terms shall have the following meanings. The word "shall" is always mandatory and not merely directory.

(a) "Authorized employee" means an employee of the Fort Wayne-Allen County Department of Public Health having law enforcement powers and who issue city ordinance violation summons to enforce the provisions of this chapter.

(b) "City" means the City of Fort Wayne.

(c) "Environmental public nuisance" is: (1) Any growth of weeds, grass or other rank vegetation on private or governmental property which is neglected, disregarded or not cut, mown, or otherwise removed and/or which has attained a height of nine (9) inches or more.

(2) Any accumulation on private or governmental property of dead weeds, grass or bush.

(3) Any poison ivy, ragweed or other poisonous plant, or plants detrimental to health, growing on any private or governmental property in such manner that any portion of such ivy, ragweed, or other poisonous or harmful weed shall extend upon, overhang or border any public place, or allow seed, pollen or other particles or emanations therefrom to be carried through the air into any public place.

(4) Property which has been allowed to become a health or safety hazard, or which has accumulated litter or waste products, unless specifically authorized under existing laws and regulations.

(d) "Excluded property" means cultivated land in commercial, domestic, agricultural or horticultural use, a natural or developed forest, which does not create a health or safety hazard, conforming to Management Series No. 2 of the Indiana Department of Natural Resources or registered with the National Wildlife Federation which does not create a health or safety hazard, and which is properly screened, if requested,

by adjoining landowners; or vacant, open lands or fields or wooded areas more than one hundred fifty feet (150') from occupied property. However, natural habitats or wildlife habitats in R-1, R-2, and R-3 (residential) districts are not to be considered excluded property, and will constitute a violation of this ordinance.

(e) "Governmental property" means real estate which is owned, leased, controlled or occupied by the United States, the State of Indiana, or any political subdivision thereof, excluding areas such as interior fields, river bank properties, and wooded lots which are maintained as natural sites by any such political entity.

(f) "Inspector" means an individual designated by the Fort Wayne-Allen County Health Commissioner to make environmental public nuisance inspections.

(g) "Occupant" means the person, firm, partnership, association, corporation, business trust, joint stock company, unincorporated organization, religious or charitable organization, or any owner, person, persons or entities who from time to time in possession or exercising dominion and control over any house or other structure located on private property; or the agents thereof.

(h) "Owner" shall be presumed to be any one or more of the following:

(1) The owner or owners in fee simple of a parcel of real estate including the life tenant or tenants if any; or

(2) The record owner or owners as reflected by the most current records in the township assessor's office of the township in which the real estate is located; or

(3) The purchaser or purchasers of such real estate under any contract for the conditional sale thereof.

(i) "Private Property" means all real estate within the City of Fort Wayne, except governmental property.

Section 32-3. Application of Chapter.

(a) Each department or agency of the United States, the State of Indiana, or any political subdivision thereof, shall be required to keep governmental property free from environmental public nuisances.

(b) All owners, lessors or occupants, or other persons in control of any private property in the city shall be required to keep that private property free from environmental public nuisances.

Section 32-4. Prohibited activity.

It shall be unlawful for any property owner or occupant to allow an environmental public nuisance to exist.

Section 32-5. Determination of violation.

Any department of the City which receives a complaint regarding an environmental public nuisance on any property within the City shall forward that complaint to the Fort Wayne-Allen County Department of Public Health, where it shall be assigned a case number and entered in a complaint log book. An inspector designated by the Commissioner of the Fort Wayne-Allen County Health Department shall visually inspect the property in question.

Section 32-6. Enforcement.

(a) Insurance of Court Summons. If, upon inspection, it is determined that a violation exists an authorized employee of the Fort Wayne Allen County Department of Public Health shall issue a City ordinance violation summons which will require that the owner or occupant cited appear in court on a specified date, and shall provide a copy thereof to the City Attorney, or his designated representative.

(b) Additional Remedy. In addition to the foregoing, the City may, by appropriate action, seek injunctive relief, and may petition the court to enjoin or order the abatement of any violation of this chapter.

(c) Abatement by City on Vacant Lots or Unoccupied Property Where Owner is Unknown. If, upon inspection of any vacant lot or unoccupied property where the owner is unknown to the inspector, it is determined by the inspector that a violation exists, and that the environmental public nuisance constitutes a menace to the health and safety of the people of the City, then the Commissioner of the Fort Wayne-Allen County Department of Public Health or his authorized representative may direct the City Street Commissioner or his authorized representative to immediately enter upon the premises and remove the environmental public nuisance.

(d) Abatement by City on Occupied Property, Vacant or Unoccupied Property Where Owner is Known. If, upon inspection of any occupied property, or vacant lot or unoccupied property where the owner is known to the inspector, it is determined that a violation exists, and that the environmental public nuisance constitutes a menace to the health and safety of the people of the City, then a written notice in the name of the Controller of the City shall be served by an authorized employee of the City of Fort Wayne-Allen County Department of Health if the owner is a resident of the City, or by registered mail to his last known address if the owner is not a resident of the City. If the owner fails to remove the environmental public nuisance within five days, or such longer period as the notice may provide, then the City may remove the environmental public nuisance.

(e) Responsibility of Offender for Costs of Removal. The City Controller shall make a certified

statement of the actual cost incurred by, and reimbursable to, the City in the removal, which statement shall include as an actual cost of removal a Fifty Dollar (\$50.00) supervision fee, one-half of which shall be paid to the City General Fund and one-half of which shall be paid to the Fort Wayne-Allen County Health Department Fund. A search of property records is required, a Twenty-five Dollar (\$25.00) search fee shall be charged and paid to the City General Fund. Said statement shall be delivered to the property owner by an authorized employee of the City of Fort Wayne-Allen County Department of Health, or by registered mail, and the owner shall pay the amount noted to the Controller within ten (10) days after receipt of the statement.

If the owner fails to pay the amount within ten (10) days after receiving a statement, a certified copy of the statement of costs shall be filed in the Office of the Auditor of Allen County for the purpose of placing the amount claimed on the duplicate against the property affected by the work, and so that the amount claimed can be collected as taxes are collected and disbursed to the City General Fund subject to the limitations above.

Section 32-7. Penalty.

Except as otherwise provided herein, any owner or occupant convicted of a violation of this chapter shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00). However, for each second and subsequent offense, the minimum fine shall be not less than One Hundred Dollars (\$100.00). In addition to any fine imposed herein, the offender shall be responsible for all costs of abatement and a Twenty-five Dollar (\$25.00) record search when property ownership must be determined which record search fee shall be payable to the City General Fund. Each day such violation is permitted to continue may be deemed to constitute a separate offense. One-third of any such fines collected shall be payable to the City of Fort Wayne-Allen County Health Department Fund and the balance to City General Fund.

Section 32-8. Severability.

If any provision or term of this chapter, or any application thereof, is held invalid, the invalidity shall not affect other applications of the provisions or terms of this chapter which reasonably can be given effect without the invalid provision or term for the application thereof.

SECTION 3. It is the express intent of this Ordinance to adopt I.C. 36-7-10-3.

SECTION 4. Notwithstanding any provisions of this ordinance, this ordinance shall not be construed to repeal any former ordinance as to any offense committed against such former ordinance or as to any done, any penalty, forfeiture or punishment so incurred or any right accrued or claim arising under the former ordinance.

SECTION 5. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor and due publication.

James B. Stier
Councilmember

Read the third time in full and on motion by Stier, seconded by Talarico, and duly adopted, placed on its passage. PASSED by the following vote:

Ayes: Nine
Bradbury, Burns, Eisbart, GiaQuinta, Henry, Redd, Schmidt, Stier, Talarico
Nays: None
Dated: 6-11-85

Sandra E. Kennedy
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, General Ordinance NO. G-13-85 on the 11th day of June, 1985.

ATTEST:

Mark E. GiaQuinta
Presiding Officer

Sandra E. Kennedy
City Clerk

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of June, 1985, at the hour of 1:00 o'clock P.M., E.S.T.

Sandra E. Kennedy
City Clerk

Approved and signed by me this 12th day of June, 1985, at the hour of 2:00 o'clock P.M., E.S.T.

Win Moses, Jr.
Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing a full, true and complete copy of General Ordinance No. G-13-85, passed by the Common Council on the 11th day of June, 1985, and that said Ordinance was duly signed and approved by the Mayor on the 12th day of June, 1985, and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 12th day of June, 1985.

Sandra E. Kennedy
City Clerk

Fort Wayne Common Council
(Governmental Unit)
Allen
County, IN

To JOURNAL-GAZETTE Dr.
P.O. BOX 100
FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) - number of equivalent lines	1
Head number of lines	275
Body number of lines	2
Tail number of lines	278
Total number of lines in notice	

COMPUTATION OF CHARGES

278 lines, 1 columns wide equals 278 equivalent lines at .450¢	\$ 125.10
Additional charge for notices containing rule or tabular work (50 per cent of above amount)	
Charge for extra proofs of publication (50 cents for each proof in excess of two) 3 extra	1.50
TOTAL AMOUNT OF CLAIM	\$ 126.60

DATA FOR COMPUTING COST

Width of single column 12.5 picas	Size of type 6 point
Number of insertions 2	Size of quad upon which type is cast 6

Pursuant to the provision and penalties of Ch. 89., Acts 1967.

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Drusilla Roose
Date June 25 19 85 Title CLERK

FORM #904

PUBLISHER'S AFFIDAVIT

SECTION 3. It is the express intent of this Ordinance to adopt I.C. 36-7-10-3.
SECTION 4. Notwithstanding any provisions of this ordinance, this ordinance shall not be construed to repeal any former ordinance as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred or any right accrued or claim arising under the former ordinance.
SECTION 5. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor and due publication.
James S. Stier
Councilmember
Read the third time in full and on motion by Stier, seconded by Talarico, and duly adopted, placed on its passage. PASSED by the following vote:
Ayes: Nine
Bradbury, Burns, Eisbart, GiaQuinta, Henry, Redd, Schmidt, Stier, Talarico
Nays: None
Dated: 6-11-85
Sandra E. Kennedy
City Clerk
Passed and adopted by the Common Council of the City of Fort Wayne, Indiana as General Ordinance NO. G-13-85 on the 11th day of June, 1985.
ATTEST:
Mark E. GiaQuinta
Presiding Officer
Sandra E. Kennedy
City Clerk
Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of June, 1985, at the hour of 1:00 o'clock P.M., E.S.T.
Sandra E. Kennedy
City Clerk
Approved and signed by me this 12th day of June, 1985, at the hour of 2:00 o'clock P.M., E.S.T.
Win Moses, Jr.
Mayor
I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-13-85, passed by the Common Council on the 11th day of June, 1985, and that said Ordinance was duly signed and approved by the Mayor on the 12th day of June, 1985, and now remains on file and on record in my office.
WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 12th day of June, 1985.
Sandra E. Kennedy
City Clerk

State of Indiana
ALLEN County SS:
Personally appeared before me, a notary public in and for said county and state, the undersigned Drusilla Roose who, being duly sworn, says that he/she is CLERK of the JOURNAL-GAZETTE a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for two times the dates of publication being as follows: 6/18 - 6/25/85
Drusilla Roose
Subscribed and sworn to me before this 25th day of June 19 85
Shelley R. LaRue Notary Public
My commission expires March 6, 1986

Fort Wayne Common Council
(Governmental Unit)
Allen
County, IN

To NEW-SENTINEL Dr.
P.O. BOX 100
FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) - number of equivalent lines

Head number of lines

Body number of lines

Tail number of lines

Total number of lines in notice

1
175
2
278

COMPUTATION OF CHARGES

278 lines, 1 columns wide equals 278 equivalent lines at .450¢ 125.10 cents per line

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

3 extra 1.50
126.60

TOTAL AMOUNT OF CLAIM

DATA FOR COMPUTING COST

Width of single column 12.5 picas

Size of type 6 point

Number of insertions 2

Size of quad upon which type is cast 6

Pursuant to the provision and penalties of Ch. 89., Acts 1967.

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Drusilla Rose

June 25 85
Date 19

Title CLERK

LEGAL NOTICE

Notice is hereby given that on the 11th day of June, 1985, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following Bill No. G-85-03-35 (as amended) (as amended) (as amended) Ordinance No. G-13-85 to-wit:

BILL NO. G-85-03-35 (as amended-as amended-as amended) GENERAL ORDINANCE G-13-85

AN ORDINANCE concerning environmental public nuisances.

WHEREAS, a present ordinance entitled Weeds and Noxious Plants is in need of revision.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That Chapter 32 of the Municipal Code of the City of Fort Wayne is repealed.

SECTION 2. That there is hereby established and adopted a revised ordinance which shall constitute a new Chapter 32 of the Municipal Code of the City of Fort Wayne as follows:

ENVIRONMENTAL PUBLIC NUISANCES

Sec. 32-1. Purpose and Intent.

It is hereby declared to be the purpose of this chapter to protect public safety, health, and welfare and enhance the environment of the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.

Sec. 32-2. Definitions.

For the purpose of this chapter the following terms shall have the following meanings. The word "shall" is always mandatory and not merely directory.

(a) "Authorized employee" means an employee of the Fort Wayne-Allen County Department of Public Health having law enforcement powers and who can issue city ordinance violation summons to enforce the provisions of this chapter.

(b) "City" means the City of Fort Wayne.

(c) "Environmental public nuisance" is:

(1) Any growth of weeds, grass or other rank vegetation on private or governmental property which is neglected, disregarded or not cut, mown, or otherwise removed and/or which has attained a height of nine (9) inches or more.

(2) Any accumulation on private or governmental property of dead weeds, grass or bush.

(3) Any poison ivy, ragweed or other poisonous plant, or plants detrimental to health, growing on any private or governmental property in such manner that any portion of such ivy, ragweed, or other poisonous or harmful weed shall extend upon, overhang or border any public place, or allow seed, pollen or other particles or emanations therefrom to be carried through the air into any public place.

(4) Property which has been allowed to become a health or safety hazard, or which has accumulated litter or waste products, unless specifically authorized

under existing laws and regulations.

(d) "Excluded property" means cultivated land in commercial, domestic, agricultural or horticultural use, a natural or developed forest, which does not create a health or safety hazard, conforming to Management Series No. 2 of the Indiana Department of Natural Resources or registered with the National Wildlife Federation which does not create a health or safety hazard, and which is properly screened, if requested, by adjoining landowners; or vacant, open lands or fields or wooded areas more than one hundred fifty feet (150') from occupied property. However, natural habitats or wildlife habitats in R-1, R-2, and R-3 (residential) districts are not to be considered excluded property, and will constitute a violation of this ordinance.

(e) "Governmental property" means real estate which is owned, leased, controlled or occupied by the United States, the State of Indiana, or any political subdivision thereof; excluding areas such as interior fields, river bank properties, and wooded lots which are maintained as natural sites by any such political entity.

(f) "Inspector" means an individual designated by the Fort Wayne-Allen County Health Commissioner to make environmental public nuisance inspections.

(g) "Occupant" means the person, firm, partnership, association, corporation, business trust, joint stock company, unincorporated organization, religious or charitable organization, or any owner, person, persons or entities who are from time to time in possession or exercising dominion and control over any house or other structure located on private property; or the agents thereof.

(h) "Owner" shall be presumed to be any one or more of the following:

(1) The owner or owners in fee simple of a parcel or real estate including the life tenant or tenants if any; or

(2) The record owner or owners as reflected by the most current records in the township assessor's office of the township in which the real estate is located; or

(3) The purchaser or purchasers of such real estate under any contract for the conditional sale thereof.

(i) "Private Property" means all real estate within the City of Fort Wayne, except governmental property.

Section 32-3. Application of Chapter.

(a) Each department or agency of the United States, the State of Indiana, or any political subdivision thereof, shall be required to keep governmental property free from environmental public nuisances.

(b) All owners, lessees or occupants, or other persons in control of any private property in the city shall be required to keep that private property free from environmental public nuisances.

Section 32-4. Prohibited activity.

It shall be unlawful for any property owner or

occupant to allow an environmental public nuisance to exist.

Section 32-5. Determination of violation.

Any department of the City which receives a complaint regarding an environmental public nuisance on any property within the City shall forward that complaint to the Fort Wayne-Allen County Department of Public Health, where it shall be assigned a case number and entered in a complaint log book. An inspector designated by the Commissioner of the Fort Wayne-Allen County Health Department shall visually inspect the property in question.

Section 32-6. Enforcement.

(a) Insurance of Court Summons. If, upon inspection, it is determined that a violation exists an authorized employee of the Fort Wayne Allen County Department of Public Health shall issue a City ordinance violation summons which will require that the owner or occupant cited appear in court on a specified date, and shall provide a copy thereof to the City Attorney, or his designated representative.

(b) Additional Remedy. In addition to the foregoing, the City may, by appropriate action, seek injunctive relief, and may petition the court to enjoin or order the abatement of any violation of this chapter.

(c) Abatement by City on Vacant Lots or Unoccupied Property Where Owner is Unknown. If, upon inspection of any vacant lot or unoccupied property where the owner is unknown to the inspector, it is determined by the inspector that a violation exists, and that the environmental public nuisance constitutes a menace to the health and safety of the people of the City, then the Commissioner of the Fort Wayne-Allen County Department of Public Health or his authorized representative may direct the City Street Commissioner or his authorized representative to immediately enter upon the premises and remove the environmental public nuisance.

(d) Abatement by City on Occupied Property, Vacant or Unoccupied Property Where Owner is Known. If, upon inspection of any occupied property, or vacant lot or unoccupied property where the owner is known to the inspector, it is determined that a violation exists, and that the environmental public nuisance constitutes a menace to the health and safety of the people of the City, then a written notice in the name of the Controller of the City shall be served by an authorized employee of the City of Fort Wayne-Allen County Department of Health if the owner is a resident of the City, or by registered mail to his last known address if the owner is not a resident of the City. If the owner fails to remove the environmental public nuisance within five days, or such longer period as the notice may provide, then the City may remove the environmental public nuisance.

(e) Responsibility of Offender for Costs of Removal. The City Controller shall make a certified statement of the actual cost incurred by, and reimbursable to, the City in the removal, which

statement shall include as an actual cost the cost of removal a Fifty Dollar (\$50.00) sum, one-half of which shall be paid to the City and one-half of which shall be paid to the Fort Wayne-Allen County Health Department. Search of property records is required, a Dollar (\$25.00) search fee shall be charged to the City General Fund. Said statement delivered to the property owner by a registered employee of the City of Fort Wayne-Allen County Department of Health, or by registered mail, shall pay the amount of the fine to the Controller within ten (10) days after the date of the statement.

If the owner fails to pay the amount within ten (10) days after receiving a statement, a certified statement of costs shall be filed in the Auditor of Allen County for the purpose of collecting the amount claimed on the duplicate against the owner, and so that the amount can be collected as taxes are collected to the City General Fund subject to the provisions of this chapter.

Section 32-7. Penalty.

Except as otherwise provided herein, any person convicted of a violation of this chapter shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00). However, for each subsequent offense, the minimum fine shall be One Hundred Dollars (\$100.00). Any fine imposed herein, the offender responsible for all costs of abatement, and the cost of record search fee shall be payable to the City of Fort Wayne-Allen County Department of Health. Each day such violation is permitted to continue shall be deemed to constitute a separate offense. One-third of any such fines collected shall be paid to the City of Fort Wayne-Allen County Department Fund and the balance to the City of Fort Wayne-Allen County Department Fund.

Section 32-8. Severability.

If any provision or term of this chapter is held invalid, the invalidity shall not affect other applications of the chapter or terms of this chapter which reasonably effect without the invalid provision or term.

SECTION 3. It is the express intent of the City of Fort Wayne to adopt I.C. 36-7-10-3.

SECTION 4. Notwithstanding any prior ordinance, this ordinance shall not be repealed any former ordinance as to which this ordinance is committed against such former ordinance act done, any penalty, forfeiture or punishment incurred or any right accrued or under the former ordinance.

SECTION 5. That this Ordinance shall

Fort Wayne Common Council

(Governmental Unit)

Allen

County, IN

To NEW-SENTINEL Dr.
P.O. BOX 100
FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

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Tail number of lines

Total number of lines in notice

1

175

2

278

COMPUTATION OF CHARGES

278 lines, 1 columns wide equals 278 equivalent lines at .450¢ 125.10
cents per line

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

3 extra

1.50

TOTAL AMOUNT OF CLAIM

126.60

DATA FOR COMPUTING COST

Width of single column 12.5 picas

Size of type 6 point

Number of insertions 2

Size of quad upon which type is cast 6

Pursuant to the provision and penalties of Ch. 89., Acts 1967.

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

June 25 85

Date 19

Title CLERK

Doris L. Rose

occupant to allow an environmental public nuisance to exist.

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If the owner fails to pay the amount within ten (10) days after receiving a statement, a certified copy of the statement of costs shall be filed in the Office of the Auditor of Allen County for the purpose of placing the amount claimed on the duplicate against the property affected by the work, and so that the amount claimed can be collected as taxes are collected and disbursed to the City General Fund subject to the limitations above.

Section 32-7. Penalty. Except as otherwise provided herein, any owner or occupant convicted of a violation of this chapter shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00). However, for each second and subsequent offense, the minimum fine shall be not less than One Hundred Dollars (\$100.00). In addition to any fine imposed herein, the offender shall be responsible for all costs of abatement and a Twenty-five Dollar (\$25.00) record search fee when property ownership must be determined which record search fee shall be payable to the City General Fund. Each day such violation is permitted to continue may be deemed to constitute a separate offense. One-third of any such fines collected shall be payable to the City of Fort Wayne-Allen County Health Department Fund and the balance to City General Fund.

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SECTION 5. That this Ordinance shall be in full force

and effect from and after its passage and any and all necessary approval by the Mayor and due publication.

James S. Stier
Councilmember
Read the third time in full and on motion by Stier, seconded by Talarico, and duly adopted, placed on its passage, PASSED by the following vote:
Ayes: Nine
Bradbury, Burns, Eisbart, GiaQuinta, Henry, Redd, Schmidt, Stier, Talarico
Nays: None
Dated: 6-11-85

Sandra E. Kennedy
City Clerk
Passed and adopted by the Common Council of the City of Fort Wayne, Indiana as General Ordinance NO. G-13-85 on the 11th day of June, 1985.

ATTEST:
Mark E. GiaQuinta
Presiding Officer
Sandra E. Kennedy
City Clerk
Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of June, 1985, at the hour of 1:00 o'clock P.M., E.S.T.

Sandra E. Kennedy
City Clerk
Approved and signed by me this 12th day of June, 1985, at the hour of 2:00 o'clock P.M., E.S.T.

Win Moses, Jr.
Mayor
I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-13-85, passed by the Common Council on the 11th day of June, 1985, and that said Ordinance was duly signed and approved by the Mayor on the 12th day of June, 1985, and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 12th day of June, 1985.
Sandra E. Kennedy
City Clerk

6/18-25

ch 6, 1986

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being duly sworn, says

of the
on printed and published

eto is a true copy,
dates of publication being

9

Fort Wayne Common Council
(Governmental Unit)
Allen
County, IN

To NEW-SENTINEL Dr.
P.O. BOX 100
FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

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Total number of lines in notice		278

COMPUTATION OF CHARGES

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cents per line				
Additional charge for notices containing rule or tabular work (50 per cent of above amount)				
Charge for extra proofs of publication (50 cents for each proof in excess of two)		3 extra		1.50
TOTAL AMOUNT OF CLAIM				126.60
				\$

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Number of insertions 2	Size of quad upon which type is cast 6

Pursuant to the provision and penalties of Ch. 89., Acts 1967.

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date June 25 85
Title CLERK

General Electric 5.3
Cubic Foot Chest Freezer
Counter-top height, self-a
usting lid, adjustable ter
control, white exterior. C
5DW. Everyday Low \$299.95

\$237

White-Westinghouse 17 Cu.
Foot Refrigerator Freezer
Completely frost-free, energy
saver switch, 3 full width
shelves, textured doors. RT-
173G. Everyday \$579.95.

\$467

TDK SA

PUBLISHER'S AFFIDAVIT

State of Indiana
ALLEN County SS:

Personally appeared before me, a notary public in and for said county and state, the undersigned Drusilla Roose who, being duly sworn, says that he/she is CLERK of the NEWS-SENTINEL a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for two times the dates of publication being as follows: 6/18 - 6/25/85

Subscribed and sworn to me before this 25th day of June 1985

Shelley R. LaRue Notary Public
March 6, 1986

My commission expires

BILL NO. G-85-03-35 (as amended)

REPORT OF THE COMMITTEE ON PUBLIC RELATIONS

WE, YOUR COMMITTEE ON PUBLIC RELATIONS TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) concerning environmental
public nuisances

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)
(~~RESOLUTION~~)

YES

NO

JAMES S. STIER
CHAIRMAN

JANET G. BRADBURY
VICE CHAIRWOMAN
BEN A. EISBART

CHARLES B. REDD

DONALD J. SCHMIDT

THOMAS C. HENRY

MARK E. GIAQUINTA

PAUL M. BURNS

SAMUEL J. TALARICO

CONCURRED IN 6-11-85

SANDRA E. KENNEDY
CITY CLERK

held for 3/26/85